

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:18-CR-00079-MOC-WCM

UNITED STATES OF AMERICA,

Vs.

RICHARD JOSEPH CHANDLER,

Defendant.

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ORDER

THIS MATTER is before the Court on the government's Motion to Dismiss the Petition of David Harlen Cole, Jr. (#30). For cause, the government argues that petitioner has failed to sign his petition under penalty of perjury as required by 21 U.S.C. § 853(n)(3).

While the government is correct in its statement of law and its characterization of the instant petition, the Court finds the better course of action is to require petitioner to file an amended petition signed under penalty of perjury either by affidavit or declaration.

Petitioner is advised that an affidavit is a writing sworn to before a notary public or another person authorized to administer oaths. A declaration is a writing signed "under penalty of perjury." Petitioner is advised that either an affidavit or a declaration made under penalty of perjury that is not truthful could expose the affiant or declarant to criminal prosecution inasmuch as perjury before this Court is a federal criminal offense.

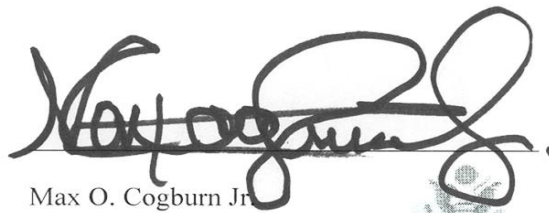
ORDER

IT IS, THEREFORE, ORDERED that the government's Motion to Dismiss the Petition of David Harlen Cole, Jr. (#30) is **DENIED** without prejudice, and petitioner is

instructed to file an Amended Petition that is signed under penalty of perjury within 14 days of entry of this Order.

The Clerk of Court is instructed to mail a copy of this Order to petitioner David Harlen Cole, Jr.

Signed: February 4, 2019



Max O. Cogburn Jr.
United States District Judge